



General Assembly

February Session, 2006

***Raised Bill No. 5694***

LCO No. 2595

\*02595\_\_\_\_\_GL\_\*

Referred to Committee on General Law

Introduced by:  
(GL)

***AN ACT CONCERNING IDENTITY THEFT AND THEFT OF PERSONAL INFORMATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) As used in this  
2 section:

3 (1) "Business" means a sole proprietorship, partnership, corporation,  
4 association, limited liability company or other entity, whether or not  
5 organized to operate for profit, including, but not limited to, a financial  
6 institution organized or chartered, or holding a license or  
7 authorization to conduct business under the laws of this state, any  
8 other state, the United States or any other country, or the parent,  
9 affiliate or a subsidiary of such financial institution.

10 (2) "Customer" means a person who provides personal information  
11 to a business for the purpose of purchasing or leasing a product or  
12 obtaining a service from such business.

13 (3) "Personal information" means the following information that  
14 identifies, relates to, describes or is capable of being associated with a

15 particular individual: (1) A person's signature, (2) a person's Social  
16 Security number, (3) a person's physical characteristics or description,  
17 (4) a person's passport number, (5) a person's driver's license or state  
18 identification card number, (6) a person's insurance policy number, (7)  
19 a person's bank account number, (8) a person's credit or debit card  
20 number, or (9) a person's individual financial information.

21 (4) "Record" means any material, regardless of physical form, on  
22 which information is recorded or preserved by any means, including  
23 in written or spoken words, graphically depicted, printed or  
24 electromagnetically transmitted. "Record" does not include publicly  
25 available directories containing information a person has voluntarily  
26 consented to have publicly disseminated or listed, such as name,  
27 address or telephone number.

28 (b) A business shall take all reasonable steps to destroy or arrange  
29 for the destruction of a customer's records within its custody or control  
30 containing personal information which is no longer to be retained by  
31 the business by shredding, erasing or otherwise modifying the  
32 personal information in those records to make it unreadable or  
33 indecipherable through any means to: (1) Ensure the security and  
34 confidentiality of such customer's personal information, (2) protect  
35 against any anticipated threats or hazards to the security or integrity of  
36 customer personal information, and (3) protect against unauthorized  
37 access to or use of customer personal information that could result in  
38 substantial harm or inconvenience to the customer.

39 (c) A disposal business that conducts business in this state or  
40 disposes of personal information of residents of this state shall take all  
41 reasonable measures to dispose of records containing personal  
42 information by implementing and monitoring compliance with  
43 policies and procedures that protect against unauthorized access to or  
44 use of personal information during or after the collection and  
45 transportation and disposal of such information.

46 (d) This section does not apply to any of the following: (1) A bank,

47 credit union or financial institution, as defined under the federal  
48 Gramm Leach Bliley Act, 15 USC 6801, et seq., subject to the regulation  
49 of the Office of the Comptroller of the Currency, the Federal Reserve,  
50 the National Credit Union Administration, the Securities and  
51 Exchange Commission, the federal deposit insurance corporation, the  
52 Office of Thrift Supervision of the United States Department of the  
53 Treasury, or the United States Department of Banking, Insurance,  
54 Securities, and Health Care Administration and subject to the privacy  
55 and security provisions of the Gramm Leach Bliley Act, 15 USC 6801,  
56 et seq., (2) a health insurer or health care facility subject to and in  
57 compliance with the standards for privacy of individually identifiable  
58 health information and the security standards for the protection of  
59 electronic health information of the Health Insurance Portability and  
60 Accountability Act of 1996, or (3) a consumer reporting agency subject  
61 to and in compliance with the Federal Credit Reporting Act, 15 USC  
62 1681, et seq.

63 (e) The Attorney General may institute a civil proceeding in the  
64 superior court against a business to enforce the provisions of this  
65 section.

66 (f) Any business that violates subsection (b) or (c) of this section  
67 shall be fined not more than two thousand dollars per occurrence.

68 Sec 2. (NEW) (*Effective October 1, 2006*) (a) As used in this section:

69 (1) "Scanning device" means a scanner, reader or any other  
70 electronic device that is used to access, read, scan, obtain, memorize or  
71 temporarily or permanently store information encoded on a magnetic  
72 strip or stripe of a payment card.

73 (2) "Reencoder" means an electronic device that places encoded  
74 information from a magnetic strip or stripe of a payment card onto a  
75 magnetic strip or stripe of a different payment card.

76 (3) "Payment card" means a credit card, charge card, debit card or

77 any other card that is issued to an authorized card user and that allows  
78 the user to obtain, purchase or receive goods, services, money or  
79 anything else of value from a merchant.

80 (4) "Merchant" means a person who receives from an authorized  
81 user of a payment card, or someone the person reasonably believes to  
82 be an authorized user, a payment card or information from a payment  
83 card, or what the person reasonably believes to be a payment card or  
84 information from a payment card, as an instrument for obtaining,  
85 purchasing or receiving goods, services, money or anything else of  
86 value from the person.

87 (b) No person shall use a scanning device to access, read, obtain,  
88 memorize or temporarily or permanently store information encoded  
89 on a magnetic strip or stripe of a payment card without the permission  
90 of the authorized user of the payment card and with the intent to  
91 defraud the authorized user, the issuer of the authorized user's  
92 payment card or a merchant.

93 (c) No person shall use a reencoder to place information encoded on  
94 a magnetic strip or stripe of a payment card onto a magnetic strip or  
95 stripe of a different card without the permission of the authorized user  
96 of the card from which the information is being reencoded and with  
97 the intent to defraud the authorized user, the issuer of the authorized  
98 user's payment card or a merchant.

99 (d) The Attorney General may institute a civil proceeding in  
100 superior court against any person who violates subsection (b) or (c) of  
101 this section.

102 (e) Any person who violates the provisions of subsection (b) or (c) of  
103 this section shall be fined not more than ten thousand dollars and  
104 imprisoned not less than one year or more than ten years, or both.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2006</i>	New section
Sec 2	<i>October 1, 2006</i>	New section

***Statement of Purpose:***

To protect consumers from identity and personal information theft.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*